

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOA DUC NGUYEN,

Movant,

-v-

UNITED STATES OF AMERICA,

Respondent.

16 Civ. 4791 (PAE)

07-CR-1121-1 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

This case has been reassigned to this Court from the late Honorable Deborah A. Batts.

On April 11, 2012, Judge Batts signed a judgment as to movant Hoa Duc Nguyen, which set out the following term of imprisonment:

60 months on count one of 07 Cr. 1122 and count one of 08 Cr. 088, to be served concurrently with each other and also concurrently with the term of imprisonment of 120 months imposed on counts two and thirty-three of 08 cr. 088 to be served concurrently with each other; these 60 month and 120 month terms are to be served concurrently with the concurrent term of imprisonment of 240 months imposed on counts one through four of 07 Cr. 734, count two of 07 Cr. 1112 and counts one and two of 07 Cr. 1121. In addition, the defendant is to serve a consecutive term of 60 months on counts three and four of 07 Cr. 1121, for a total sentence of 300 months of imprisonment.

No. 07 Cr. 1121 (“Cr. Dkt.”), Dkt. 6 at 4. On June 24, 2016, Nguyen filed a motion seeking relief, pursuant to 28 U.S.C. § 2255, as to his convictions for Counts Three and Four in this case, for use of a firearm during a crime of violence, in violation of 18 U.S.C. § 924(c). Cr. Dkt. 7; No. 16 Civ. 4791 (“Civ. Dkt.”), Dkt. 1. Pursuant to the Court’s Standing Order, *In re Petitions Under 28 U.S.C. § 2255 and 2241 in Light of Johnson v. United States*, 16-MC-217 (CM) (S.D.N.Y. June 8, 2016), that petition was to serve as a “placeholder” until it was supplemented

at a later date by “a brief that more fully sets forth the basis for the requested relief.” Civ Dkt. 3; Cr. Dkt. 8.

No such brief, or request for a proposed briefing schedule, was ever filed. Accordingly, the Court directs counsel for Nguyen to file a letter setting forth its views as to the proper disposition of this motion, in light of the above authority and *United States v. Davis*, 139 S. Ct. 2319 (2019), **by March 6, 2020**. The Government shall respond to that letter with its views **by March 20, 2020**.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: February 20, 2020
New York, New York